



To House or Not to House – Section 202 PRAC

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The past several months have seen numerous discussions on eligibility for the elderly and disabled. One recurring question that has arisen from these discussions is whether or not you can admit a non-elderly disabled tenant into a Section 202 PRAC project. While this may appear to be a relatively simple question, the answer is not that simple.

A Section 202 PRAC contract is designed to house the elderly, whereas a Section 811 PRAC contract is designed to house the disabled. However, the evolution of the Section 202 PRAC contract has provided some leeway in allowing a non-elderly disabled tenant into a Section 202 PRAC project. Let's take a few moments to explore the history of the Section 202 PRAC contract and its impact on housing for the elderly and disabled.

History of Section 202 PRAC Program

The Section 202 PRAC program was originally developed to house the elderly and persons with disabilities. Since its inception in the 1960s, the program has evolved from merely a loan program to a capital advance program that includes other forms of assistance. According to the HUD Handbook 4350.3 Rev-1, Chapter 1, Paragraphs B-1, B-2 and B-3, the program has effectively been redesigned multiple times to encompass all tenant and property needs, the last resulting in split PRAC contracts.

1. Section 202 Direct, Low-Interest Loans. *This program provided Section 202 low-interest, direct loans to develop housing for the elderly or disabled. Some of these Section 202 properties received tenant subsidies in the form of Rent Supplement or Section 8 Loan Management Set-Aside contracts. The program was discontinued after 1976; however, many of these properties are still in service.*
2. Section 202 Direct, Formula Interest Rate Loans. *This program replaced the Section 202 direct, low-interest loan program. It also provided long-term, direct loans to finance housing for the elderly or persons with disabilities. However, these loans carried an interest rate based on the average yield on 30-year marketable obligations of the United States and properties were developed with 100% Section 8 assistance to help keep units affordable to low-income families. The program, commonly referred to as Section 202/8, stopped making loans in 1991, but there are many Section 202/8 properties in service. In addition, the Section 162 program was created in 1988 as a program for persons with disabilities.*
3. Section 202 and Section 811 Capital Advances. *Since October 1991, HUD has provided capital advances, rather than loans, to finance the development of rental housing for the elderly and persons with disabilities. The Section 202 Capital Advance Program provides housing for the elderly, and the Section 811 Capital Advance Program does the same for persons with disabilities. These programs replaced the Section 202 direct,*



formula interest rate loan program. In both the Section 202 and Section 811 programs, the development of rental housing with supportive services is subsidized with an interest-free capital advance, and repayment is not required as long as the housing remains available to very low-income elderly or very low-income persons with disabilities. The capital advances are provided together with tenant rental subsidies in the form of Project Rental Assistance Contracts (PRACs).

What this means is that while the Section 202 PRAC was originally intended as the means to house disabled persons, the Section 811 PRAC contract now provides that service. So does that mean that you cannot admit a non-elderly disabled person into a Section 202 PRAC project? Well, not necessarily so.

Eligibility Requirement

The eligibility requirement of a tenant for a Section 202 PRAC project must be, “A household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.” However, like everything else with HUD, there is an exception to the rule.

According to the HUD Handbook 4350.3 Rev-1, Chapter 3, Paragraph G-1:

“If the owner is temporarily unable to lease all units to eligible families, he may request HUD approval to lease one or more units to families that do not meet the income eligibility requirements of 24 CFR Part 5 as follows:

The owner’s written request providing the information specified in Situation 6 of Exhibit 3-1 must be submitted to HUD Headquarters with the recommendation of the HUD Field Office.”

Additionally, Chapter 3, Paragraph G-2 and G-2 section states:

“If permitting over-income families to lease one or more units is not sufficient to solve the vacancy problem, in order to protect the financial viability of the project, an owner may request approval to serve a population other than the one(s) it was approved to serve.

a. A request to waive the age requirement for a Section 202 project for the elderly must provide documentation of the owner’s continuing marketing efforts to attract eligible applicants and that an increased level of occupancy will prevent financial default and foreclosure. The request with the recommendation of the HUD Field Office is sent to the Multifamily Hub for approval except that in the case of a Section 202 PRAC project, the request and recommendation must be sent by the Multifamily Hub to Headquarters for approval”.

So what is the answer? Yes. The general rule of thumb is to remember that HUD created the Section 202 PRAC contract and the Section 811 PRAC contract to help alleviate some of the confusion of housing the elderly and persons with disabilities. If you are unable to house an elderly family on your Section 202 PRAC property, you may be able to obtain an age waiver from HUD if being unable to house a qualified tenant will jeopardize the financial solvency of the property.

Please be sure to contact your HUD field office or Contract Administrator, or consult your HUD handbook, if you have further eligibility questions. If you do not know who your local HUD field office representative is, go to <http://www.hud.gov/localoffices.cfm> for help.

